

Serial No. 10/698,040 filed October 30, 2003  
Response dated October 29, 2008  
to Office Action of April 29, 2008

### Remarks

Receipt is acknowledged of the Office Action of April 29, 2008. Reconsideration of the application and all necessary extensions of the time provided for response are respectfully requested. A Request for Continued Examination is enclosed. The Commissioner is hereby authorized to debit all amounts deemed required from Deposit Account No. 50-1604.

In the Office Action, the claims were rejected under 35 U.S.C. §101. To facilitate an allowance, the claims were previously amended to recite a computing device as recited above. As a result, it is submitted that all of the current claims present patentable subject matter. All of the claims are directed to a machine which implements a method invented by the current Applicant.

It is further noted that the U.S. Court of Appeals for the Federal Circuit currently has a significant case pending concerning the scope of §101, which is being considered *en banc* by the full court. *See, In re Bilski*, Docket No. 2007-1130 (Fed. Cir. 2008) (*en banc*). Among the questions being addressed are what standard should govern in determining whether a process is patent-eligible subject matter under §101. Thus, it is believed that the outcome of that case may have significant impact on the determination of applicability of §101 here, and on the proper or best scope of the pending claims. In view thereof, it is respectfully requested and submitted that any further action should be based on the Federal Circuit's expected decision in that case and/or deferred until that decision is issued.

With respect to further modifications to the claims, if any, whether to address the issues asserted regarding priority, §101, §102-103 and/or §112, while Applicant disagrees with the

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rejections, it is likewise submitted that determination of the best language for the claims requires, and will likely be impacted by, the guidance expected once a decision is issued in the *Bilski* case.

In addition, with respect to the rejection under §112, it is noted that the claims are based, *inter alia*, on the equations originally provided at the time of filing. Based on those equations and the additional description in the specification, it is submitted that the specification conveys the claimed invention to one skilled in the art at the time the application was filed.

Furthermore, Applicant respectfully disagrees with the remaining rejections for the reasons set forth in his prior response. As set forth, the claims distinctly and particularly recite the subject matter of the claimed invention to one skilled in the art, and are not at all anticipated or obvious over the art in any fashion.

Accordingly, reconsideration of the rejections is respectfully requested.

Dated: October 29, 2008

Respectfully submitted,

/Morris E. Cohen/

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